

APPLICANTS:
Brian & Joyce Wisniewski

REQUEST: A variance to allow an addition
within the required rear yard setback

HEARING DATE: September 21, 2005

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5500

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Brian & Joyce Wisniewski

LOCATION: 1223 Eugenia Way – Valewood Estates, Bel Air
Tax Map: 48 / Grid: 1D / Parcel: 227 / Lot: 80
Third (3rd) Election District

ZONING: R2 / Urban Residential

REQUEST: A variance pursuant to Section 267-36(B), Table V, of the Harford County Code, to allow an addition to be constructed to within 36 feet of the rear yard lot line (40 foot setback required), in the R2 District.

TESTIMONY AND EVIDENCE OF RECORD:

Brian Wisniewski, Applicant, described his residence as a two-story single family home, located on an approximately 0.25 acre parcel in Valewood Estates. The subject property is unusually configured in that it is a corner lot, requiring front yard setbacks from both Eugenia Way, on which the Applicants' driveway is located, and from Alexandria Way.

The Applicants wish to extend their existing family room by adding a 10 foot by 16 foot addition. The Applicants are unable to construct the addition on the north, or right side of the house as one were facing it, as the house is only 10.8 feet from the property line. The Applicants are unable to construct the addition on the southwest, or left side of the house as one were facing it from Eugenia Way, as that side is subject to a 35 foot' front yard setback (even though this is actually the side of the house) and would, accordingly, have only 9 feet available in which to construct such an addition.

The Applicants accordingly feel that the only feasible spot would be to the rear of the property in which they have approximately 45 feet of depth available to them and would require only a 4 foot 4 inch variance in order to construct the proposed addition. The Applicants further feel that this location would cause the least impact to any of their adjoining neighbors or to the other residents of the subdivision.

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Mr. Wisniewski believes his unique situation is compounded by the fact, amply demonstrated by the site plan, labeled as Attachment 3 to the Staff Report, that the house was not built on the minimum building setback line on the Alexandria Way side. If it had been built on the setback line, according to Mr. Wisniewski, the addition could be constructed on the north, or right side, of the property without a variance.

Mr. Wisniewski believes that the addition would be of value to him and would not adversely impact any adjoining property or property owner. No neighbor has expressed any opposition to the proposed request.

The Staff Report relates that the rear yard is almost fully screened on three sides by mature evergreen trees and shrubbery. The front yard also contains mature trees. The Staff Report states that the proposed addition, given the existing screening and proposed location, will not impact adjoining properties.

The Staff Report further states that the lot has a limited development envelope due the required 35 foot yard setback from each of two roads. The proposed family room addition, which will be 10 feet by 24 feet wide, if built, will require a reduction of 4 feet to the existing 40 foot rear yard setback. The Staff Report suggests that the 4 foot reduction would not be noticeable and the proposed addition is a reasonable size compared to other additions in the neighborhood.

There was no evidence or testimony given in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

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- B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

While a relatively standard sized lot in its subdivision, the Applicants lot is impacted by two front yard setbacks. Combined with the existing 40 foot rear yard setback requirement, the portion of the Applicants' lot which remains for the proposed addition is extremely limited. While the Applicants propose a relatively modest sized 10 foot deep addition to its existing family room, without the variance that addition would only been between 5 to 6 feet wide which would, at the very least, provide little practical and usable space to the Applicants. Accordingly, the Applicants propose a variance of 4 feet 4 inches into the rear yard setback which would result in a remaining rear yard setback of approximately 35 feet to the rear yard line.

It is, accordingly, found that the existence of two front yard setbacks constitutes an unusual condition which causes a hardship to the Applicant. That hardship is the Applicant's inability to construct an addition to its house which is similar to others in the neighborhood and which would, if constructed, be an improvement not only to the Applicants property but also to the neighborhood.

It is further found there will be no adverse impact on any adjoining neighbor or on the neighborhood. The Staff Report indicates that the property is well screened, and hosts numerous mature trees and shrubbery.

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CONCLUSION:

It is, accordingly, recommended the requested variance be granted, subject to the Applicants obtaining all necessary permits and inspections.

Date: October 7, 2005

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on NOVEMBER 4, 2005.